

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LESLIE GRISHAM,  
Plaintiff,

v.

PHILIP MORRIS USA INC., et al.  
Defendants.

Case No. 02-7930 SVW (Rcx)

**[PROPOSED] ORDER  
GRANTING COLLATERAL  
ESTOPPEL/ISSUE PRECLUSION**

**[ALTERNATIVE PROPOSED]  
ORDER TO STAY ALL  
PROCEEDINGS:**

Judge: Hon. Stephen V. Wilson

**[PROPOSED] ORDER GRANTING COLLATERAL ESTOPPEL/ISSUE  
PRECLUSION**

Before the court is Grisham's Motion for Stay of proceedings or alternatively for this Court to apply the doctrine of collateral estoppel/issue preclusion to her claims. Grisham further requests that the defendants be collaterally estopped from denying those findings of fact, relative to her causes of action, which have been conclusively found against them as related to all her claims.

Having found that the matter of *United States v. Philip Morris USA, Inc.*, (D.C. Cir. 2009) 449 F.Supp.2d 1 (D.D.C. 2006), *aff'd*, 566 F.3d 1095 is firm for purposes of the doctrine of collateral estoppel/issue preclusion and having found that Grisham has demonstrated that collateral estoppel/issue preclusion should be applied to the fraud allegations in her first amended complaint and that Defendants should be barred from denying facts conclusively found against them as relate to all her claims, the Court

**ORDERS AS FOLLOWS:**

1. Defendants' Motion for Summary Judgment on the Statute of Limitations defense is denied because the conclusive finding of fraud in *United States v. Philip Morris USA, Inc.*, (D.C. Cir. 2009) 449 F.Supp.2d 1 (D.D.C. 2006), *aff'd*, 566 F.3d 1095 as against these defendants bars summary judgment on statute of limitations grounds.
2. Defendants are collaterally estopped from denying the findings of fact and conclusions of law as found in of *United States v. Philip Morris USA, Inc.*, 449 F.Supp.2d 1 (D.D.C. 2006), *aff'd*, 566 F.3d 1095 (D.C. Cir. 2009) related to Plaintiff's negligence, strict products liability, fraud (false representation, fraudulent concealment), and breach of express warranty claims.
3. Defendants' Motion for Summary Judgment as to plaintiffs' strict products liability, fraud and breach of express warranty claims is denied because the findings of fact and conclusions of law, including a conclusive finding of fraud, in *United States v. Philip Morris USA, Inc.*, (D.C. Cir. 2009) 449 F.Supp.2d 1 (D.D.C. 2006), *aff'd*, 566 F.3d 1095 as against these defendants bars summary judgment .

**[ALTERNATIVE PROPOSED] ORDER TO STAY ALL PROCEEDINGS:**

This case is stayed pending the United States Supreme Court's decision in *United States of America, et al. v. Philip Morris, et al.*, U.S. Court of Appeals for the District of Columbia, No. 06-5267, issued on May 22, 2009.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Stephen V. Wilson  
Judge of the United States District Court